IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NLMK PENNSYLVANIA, LLC, Plaintiff, v. KEN GRECO COMPANY, INC. KENNETH J. GRECO SR., an adult individual Defendants.	: : : : : : : : : : :	Civil Action No.

COMPLAINT

AND NOW, this ___ day of ____________, 2017, comes the Plaintiff, NLMK Pennsylvania, LLC, through counsel, Steven C. Townsend, Esquire, of Eddy DeLuca Gravina & Townsend, who serves the following Complaint, averring as follows:

I. Jurisdiction

1. Jurisdiction is based upon complete diversity of citizenship pursuant to 28 U.S.C.§1332(a).
2. The amount in controversy, exclusive of interest and costs, exceeds the sum of $75,000.00

II. Venue

3. The acts or omissions giving rise to Plaintiff's claims arose in Mercer County, Pennsylvania. Thus, pursuant to 28 U.S.C.A. § 1391(b), venue is proper in the United States District Court for the Western District of Pennsylvania.

III. Parties

4. Plaintiff NLMK, Pennsylvania, LLC, is a Delaware limited liability company registered in Pennsylvania with its principal place of business at 15 Roemer Boulevard, Farrell, Pennsylvania 16121.
5. The Defendant, Ken Greco Company, Inc., hereinafter "Greco Company", is an Ohio corporation with a principal place of business at 755 Boardman Canfield Road, Building N, Unit 2, Boardman, Ohio 44512
6. The Defendant Kenneth J. Greco Sr., hereinafter "Greco" is an adult individual whose residence is believed to be in the state of Ohio and is the President of Greco Company.

IV. Background Factual Allegations

7. On or about June 2002 to May 2016, Plaintiff and Defendants entered into annual agreements from June to May, whereby Defendants agreed to purchase and remove Plaintiff's scrap metal from Plaintiff's premises and in exchange for the scrap metal, Defendants would pay Plaintiff per gross ton of scrap metal.
8. On or about June 1, 2016 to January 2017, Plaintiff and Defendants entered into monthly agreements, whereby Defendants agreed to purchase and remove Plaintiff's scrap metal from Plaintiff's premises and in exchange for the scrap metal, Defendants would pay Plaintiff per gross ton of scrap metal.
9. Each month Defendants would provide Plaintiff with a purchase order offering to purchase several types of scrap metal from Plaintiff with the price based on the American Metal Market price at the time of the purchase order.

10. Defendants' submission of the purchase order to the Plaintiff was the offer to purchase the scrap metal.

11. Plaintiff's permission to remove the scrap metal was the acceptance of Defendants' offer.

12. Defendants agreed to purchase Plaintiff's scrap metal from Plaintiff's place of business, weigh it prior to departure, transport the scrap metal to Greco Company's facility in Ohio and then pay Plaintiff per gross ton.

13. Defendants maintained heavy equipment and employed staff at Plaintiff's place of business for the purpose of removing the scrap metal it had purchased.

14. Plaintiff would submit detailed invoices to Defendants to reflect the amount Defendants owed, copies of which are attached hereto.

15. The invoices detailed the date the scrap metal was removed from Plaintiff's premises, the description of the scrap metal, the gross tonnage, the price per gross ton and the amounts due.

16. Although repeated demands were made, Defendants have failed to pay for the scrap metal they removed and took possession of from Plaintiff.

17. Defendants accepted all invoices and never disputed or disagreed with the amounts due and owing.

COUNT I - CONVERSION

18. The allegations set forth in paragraphs 1-17 above are incorporated herein by reference.

19. In or around August of 2016 to in or around January 2017, Defendants removed Plaintiff's scrap metal and have and refused to pay Plaintiff.

20. Plaintiff has submitted the following invoices, copies of which are attached hereto, and demanded payment from Defendant, in the total amount of $1,221,285.37.

a. 8-25-16 Invoice 21479 $62,028.56 (Exhibit A)

b. 8-31-16 Invoice 21485 $54,739.86 (Exhibit B)

c. 8-31-16 Invoice 21495 $38,955.63 (Exhibit C)

d. 9-19-16 Invoice 21500 $66,147.27 (Exhibit D)

e. 9-22-16 Invoice 21511 $94,745.59 (Exhibit E)

f. 9-28-16 Invoice 21521 $36,173.20 (Exhibit F)

g. 9-30-16 Invoice 21531 $38,110.64 (Exhibit G)

h. 10-17-16 Invoice 21538 $63,034.59 (Exhibit H)

i. 10-31-16 Invoice 21548 $58,634.19 (Exhibit I)

j. 10-31-16 Invoice 21553 $33,468.02 (Exhibit J)

k. 11-21-16 Invoice 21559 $58,935.06 (Exhibit K)

l. 11-30-16 Invoice 21564 $17,441.80 (Exhibit L)

m. 11-30-16 Invoice 21571 $62,061.02 (Exhibit M)

n. 11-30-16 Invoice 21578 $17,233.71 (Exhibit N)

o. 12-28-16 Invoice 21584 $93,958.74 (Exhibit O)

p. 12-29-16 Invoice 21587 $97,183.24 (Exhibit P)

q. 12-30-16 Invoice 21592 $50,709.56 (Exhibit Q)

r. 12-30-16 Invoice 21599 $79,477.12 (Exhibit R)

s. 1-19-17 Invoice 21608 $85,814.94 (Exhibit S)

t. 1-19-17 Invoice 21612 $112,432.63 (Exhibit T)

21. The invoices Plaintiff submitted to Defendants reflect the amounts owing based on Defendants' monthly purchase orders. (Exhibit U)

22. Defendants agreed to, but have failed to pay Plaintiff for all of the scrap metal that Defendants removed from Plaintiff's premises.

23. It is believed, and therefore averred, that Defendants removed the scrap metal with the specific intent to take exclusive possession and sell it without paying Plaintiff.

24. Plaintiff has been deprived of its property as a result of the acts of the Defendants.

25. It is alleged that Defendant Greco personally participated on behalf of himself and Defendant Greco Company.

26. As of the date of this filing and after several demands for payment, Defendants have failed to pay Plaintiff and therefore intentionally deprived Plaintiff of its property and use or possession of its property without Plaintiff's consent, and without justification.

WHEREFORE, Plaintiff demands judgment against both Defendants, for $1,221,285.37 and such other and further relief as may be just, proper and allowable, including attorneys fees, pre-judgment and post-judgment interest and the costs of this suit.

COUNT II – BREACH OF CONTRACT

27. The allegations set forth in paragraphs 1-26 above are incorporated herein by reference.

28. The agreements and representations made by the parties formed a valid contract between the Plaintiff and Defendants.

29. Plaintiff performed all of its obligations pursuant to the contract.

30. Defendants breached the contract by failing to pay as agreed.

31. Plaintiff has been damaged by Defendant's breach.

WHEREFORE, Plaintiff demands judgment against both Defendants, for an $1,221,285.37 and such other and further relief as may be just, proper and allowable, including attorneys fees, pre-judgment and post-judgment interest and the costs of this suit.

COUNT III – UNJUST ENRICHMENT

32. The allegations set forth in paragraphs 1-31 above are incorporated herein by reference.

33. Defendants have acquired the benefit of retaining, selling or otherwise profiting from Plaintiff's property at Plaintiff's expense.

34. Plaintiff is entitled to an amount in excess of $1,221,285.37 in damages.

35. Allowing Defendants to retain the benefit of Plaintiff's scrap metal or proceeds therefrom would be inequitable without payment.

WHEREFORE, Plaintiff demands judgment against both Defendants, for an amount in excess of $1,221,285.37, and such other and further relief as may be just, proper and allowable, including attorneys fees, pre-judgment and post-judgment interest and the costs of this suit.

JURY TRIAL DEMANDED

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NLMK Pennsylvania, LLC